BEFORE THE HEARING BOARD OF THE
NORTH COAST UNIFIED AIR QUALITY MANAGEMENT DISTRICT

LAWRENCE ODLE, AIR POLLUTION CONTROL OFFICER FOR THE NORTH COAST UNIFIED AIR QUALITY MANAGEMENT DISTRICT, (NCUAQMD), A UNIFIED AIR QUALITY MANAGEMENT DISTRICT WITH JURISDICTION INCLUDING THE ENTIRETY OF THE COUNTIES OF HUMBOLDT, DEL NORTE, AND TRINITY, Petitioner, vs. ULTRAPOWER 3, A SUBSIDARY OF NORTH AMERICAN POWER PO Box 1158, 200 Taylor Way, Industrial Park, Blue Lake, California 95525, Respondents.	REQUEST FOR STIPULATED ORDER PERTAINING TO PETITION TO REVOKE AQMD PERMIT NO. NS-071 AND TITLE V PERMIT NO. NCU 097-12; AND ORDER

REQUEST FOR STIPULATED ORDER

A. Petitioner, the North Coast Unified Air Quality Management District, acting by and through its Air Pollution Control Officer ("APCO") filed a Petition for Revocation of AQMD Permit No. NS-071 and Title V Permit No. NCU 097-12 against respondent Ultrapower 3, a California Joint Venture.

B. Said Petition seeks permit revocation on grounds of material change in facility operations and on material inadequacy in permits.

C. Respondent submitted a response opposing the Petition for Revocation and alleging that the APCO did not meet statutory and regulatory criteria for permit revocation.

D. The parties have reached agreement based on the stipulation following hereto which settles the issues raised in the Petition for Revocation and the response thereto, and the parties hereby request that the Hearing Board enter the following order.

ORDER RE PETITION FOR REVOCATION OF AQMD PERMIT NO. NS-071 AND TITLE V PERMIT NO. NCU 097-12

IT IS ORDERED that the parties' Request for a Stipulated Order Pertaining to Petition to Revoke AQMD Permit No. NS-071 and Title V Permit No. NCU 097-12, be granted and entered pursuant to the terms of the parties' stipulation, following hereto.

IT IS FURTHER ORDERED, that this Stipulated Order is conditioned upon respondent's completion and compliance of all terms of said stipulation.

STIPULATION

1. Ultrapower shall file a revised Title V application with the AQMD, which meets the conditions enumerated below ("Conditions"), no later than October 31, 2005.
2. Submission of the revised Title V application shall be deemed to satisfy the requirements of District Regulation 1, Rule 110, as amended on May 19, 2005.
3. AQMD Permit No. NS-071 and Title V Permit No. NCU 097-12 shall remain in effect pending the above submission to the District. In the event that Ultrapower does not submit an application satisfying the Conditions, these permits shall become null and void.
4. Once Ultrapower has submitted the application satisfying the Conditions to the AQMD on or before October 31, 2005, AQMD Permit No. NS-071 and Title V Permit No. NCU 097-12 shall remain in effect pending the AQMD's review of the application and issuance of a revised Permit to Operate and Title V Permit.
5. Upon the AQMD's issuance of the revised Permit to Operate and Title V Permit, AQMD Permit No. NS-071 and Title V Permit No. NCU 097-12 shall be replaced by the revised Permit to Operate and Title V Permit.

Conditions on Permit Application

See Exhibit A attached hereto and incorporated herein.

Petitioner:

NCUAQMD:

Lawrence Odle, APCO

Dated: 06/23/, 2005

APPROVED AS TO FORM:

Nancy Diamond
Attorney for Petitioner NCUAQMD

Dated: 6/23, 2005

Respondent:
ULTRAPOWER 3:

See attached signature page
Michael Rufatto, President
Ultrapower 3, Inc., General Partner

Dated: _____, 2005

APPROVED AS TO FORM:

See attached signature page
M. Elizabeth McDaniel
Irwin D. Karp
Attorney for Respondent Ultrapower 3

Dated: _____, 2005

THE HEARING BOARD OF THE NORTH COAST UNIFIED AIR QUALITY MANAGEMENT DISTRICT:

By: _____
John Corbett, Chairman

Dated: _____, 2005

ATTEST:

Ayes: _____
Noes: _____
Absent: _____
Abstentions: _____

Petitioner:

NCUAQMD:

_____ Dated: _____, 2005
Lawrence Odle, APCO

APPROVED AS TO FORM:

_____ Dated: _____, 2005
Nancy Diamond
Attorney for Petitioner NCUAQMD

Respondent:
ULTRAPOWER 3:

_____ Dated: June 23, 2005
Michael Rufatto, President
Ultrapower 3, Inc., General Partner

APPROVED AS TO FORM:

_____ Dated: _____, 2005
M. Elizabeth McDaniel
Irwin D. Karp
Attorney for Respondent Ultrapower 3

THE HEARING BOARD OF THE NORTH COAST UNIFIED AIR QUALITY MANAGEMENT DISTRICT:

By: _____ Dated: _____, 2005
John Corbett, Chairman

ATTEST:

Ayes: _____
Noes: _____
Absent: _____
Abstentions: _____

Petitioner:

NCUAQMD:

_____ Dated: _____, 2005
Lawrence Odle, APCO

APPROVED AS TO FORM:

_____ Dated: _____, 2005
Nancy Diamond
Attorney for Petitioner NCUAQMD

Respondent:
ULTRAPOWER 3:

_____ Dated: _____, 2005
Michael Rufatto, President
Ultrapower 3, Inc., General Partner

APPROVED AS TO FORM:

M. Elizabeth McDaniel Dated: June 23, 2005
M. Elizabeth McDaniel
Irwin D. Karp
Attorney for Respondent Ultrapower 3

THE HEARING BOARD OF THE NORTH COAST UNIFIED AIR QUALITY MANAGEMENT DISTRICT:

By: _____ Dated: _____, 2005
John Corbett, Chairman

ATTEST:

Ayes: _____
Noes: _____
Absent: _____
Abstentions: _____

EXHIBIT A

CONDITIONS FOR PERMITS

The Ultrapower 3 Generating Station is a nominal 13.1 gross megawatt biomass electrical generation facility. The facility commenced construction in December 1983, and went on-line in July 1985. The facility's operations were curtailed in April 1999, due to the high cost of fuel.

I. DESCRIPTION OF EQUIPMENT

1. The facility consists of a 105,000 pounds steam per hour (185 million Btu/hr heat maximum input) Zurn Corporation boiler, equipped with an overfire air system, a 13,055 Kilowatt (KW) Turbodyne steam turbine, and a 13,806 Kilovolt-ampere (kVA) Electric Machine Generator. An ash reburn chamber is utilized to burn the carbon contained in the ash from the air preheater dropout, and multiclone dropout. Heat from the reburn chamber is directed into the combustion chamber above the grates. The facility uses an 80 million Btu/hr Natural Gas Liquids (NGL) burner during startups, shutdowns and periods of combustion instability.

2. The facility is supported by a wood fuel drier (drier heat provided from the boiler exhaust gas), a 250 KW (> 50 Hp) diesel-fired emergency generator and a (>50 Hp) feed water pump.

3. Particulate matter is controlled with a multiclone assembly followed by an electrostatic precipitator (ESP) manufactured by Research Cottrell Corporation. The unit has two separate transformer/rectifier fields and a collection plate area of 21,002 square feet. The two fields are rated at 85 kVA.

II. PRIOR TO OCTOBER 31, 2005, PREPARE AND SUBMIT A REVISED TITLE V PERMIT APPLICATION

Content of Permit Application

1. Perform an ambient air quality modeling study, subject to review and approval by the APCO (including background level emissions) to demonstrate that no ambient air quality violations of criteria pollutant standards will occur as a result of start-up or operation.

2. Using APCO-approved air dispersion modeling, identify the impact area for the facility and the maximum emission levels for all criteria air pollutants that the entire facility may emit without consuming applicable Prevention of Significant Deterioration (PSD) increments within the impact area, including background level emissions.

3. The Permittee shall submit an updated Health Risk Assessment (HRA) using meteorological data obtained from Blue Lake Rancheria. The HRA shall be designed in accordance with the Office of Environmental Health Hazard Assessment *Air Toxics Hot*

Spots Program Guidance Manual for the Preparation of Risk, and address the cumulative health effects when combined with currently available background air quality levels.

Proposed Conditions

4. At least 30 days prior to facility start-up, prepare and submit for approval a Facility Start-up Plan identifying procedures necessary to maintain compliance with all permit conditions.

5. By December 1st of each year, identify all anticipated fuel sources for the up-comming calendar year, including the expected percentage use of NGL.

6. By January 30th of each year, a summary of suppliers, type of fuel (wood, diesel, and NGL) and amounts delivered shall be provided for the previous calendar year.

7. Identify and submit for approval a list of monitoring parameters for all air pollution-emitting equipment, control equipment and support equipment impacting emissions, including but not limited to the boiler, the drier, the multiclones and electrostatic precipitator, and all fossil fuel-fired stationary and portable engines (e.g. steam flow, pressure, temperature, wood fuel mix, etc.) to monitor the normal operational levels of the facility.

8. Prepare and submit for approval an active preventative maintenance plan and schedule for all air pollution-emitting equipment, control equipment and support equipment impacting emissions; including but not limited to the boiler, the drier, the multiclones, the electrostatic precipitator, and all fossil fuel-fired stationary and portable engines.

9. Prepare and submit for approval a Continuous Emission Monitoring System (CEMS) and Continuous Opacity Monitoring System (COMS) Plan; including, but not limited to daily calibration schedules, auditing and reporting.

10. Identify all facility-wide emission points, emissions and controls, and update the emission inventory (including criteria and toxics) for the last consecutive 12 months of operation).

Ambient Monitoring

11. By September 1, 2005, prepare and submit an Ambient Monitoring Plan providing for ambient monitoring of criteria pollutants emitted by the facility, beginning no later than January 1, 2006, and at the maximum downwind site of the facility property at a site approved by the APCO that meets the federal ambient monitoring requirements of 40 CFR 58, or, alternatively, notify the APCO prior to October 1, 2005, of the intent to submit payment to the AQMD in the amount of $3,500 per month towards the costs of performing the necessary AAQS ambient monitoring.

Emission Limitations

12. The following emission limitations will apply:

    a. Particulate Matter - Except during startup, shutdown or malfunction, the discharge of Particulate Matter from the electrostatic precipitator into the atmosphere shall not exceed emission limits as stated in the appropriate NSPS. Compliance shall be determined annually from the average of three one-hour compliance tests.

    b. Visible Emissions - Prohibit the discharge into the atmosphere of any gases that exhibit greater than 20 percent opacity (6-minute average), except for one 6-minute period per hour of not more than 27 percent opacity [Appropriate NSPS reference to be provided]. The opacity standard applies at all times except during periods of startup, shutdown or malfunction [Appropriate NSPS reference to be provided]

    c. Carbon Monoxide - Except during startup, shutdown or malfunction, the Permittee shall not discharge Carbon Monoxide from the electrostatic precipitator into the atmosphere in excess of the limit determined based upon II (2), on a one-hour average basis, not to exceed a 1-hour limits (ppm) (to be determined).

    d. Carbon Monoxide - During startup and shutdown, except for malfunction, the Permittee shall not discharge Carbon Monoxide from the electrostatic precipitator into the atmosphere from the in excess of the limit determined based upon II (1), on a one-hour average basis, not to exceed a 1-hour limits (ppm) (to be determined).

    e. Nitrogen Oxides - Except during startup, shutdown or malfunction, the Permittee shall not discharge Nitrogen Oxides from the electrostatic precipitator into the atmosphere in excess of the limit determined based upon II (2), on a one-hour average basis (ppm) (to be determined).

    f. Nitrogen Oxides - During startup and shutdown, except for malfunction, the Permittee shall not discharge Nitrogen Oxides from the electrostatic precipitator into the atmosphere in excess of the limit determined based upon II (1), on a one-hour average basis (ppm) (to be determined).

Compliance Monitoring

13. The following methods shall be used for determining compliance with the above emissions limitations:

    a. Visible Emissions - The Permittee shall operate at all times a continuous opacity monitoring system (COMS). 40 CFR 60, Appendix B, Performance Specification 1 shall be the basis for the operation of the COMS.

    b. Carbon Monoxide and Nitrogen Oxides - CARB Method 100 or other EPA approved method. A continuous emissions monitoring system (CEMS) shall be used for the

determination of Carbon Monoxide and Nitrogen Oxides emissions from the boiler. The CEMS shall be operated in conformance with 40 CFR, Part 60 Appendix B, Performance Specifications, and Appendix F, Quality Assurance Procedures.

c. Establish and adhere to a facility-wide monitoring plan.

d. Establish and adhere to a facility-wide preventative maintenance plan.

e. Conduct inspections of the basic equipment on a daily basis including all ducting and conveyance systems with the intent to identify and repair preventable fugitive emissions or leaks.

f. Prepare an inspection log that specifies the initials of the person inspecting the system, the date and time inspected, the location of any leak found, and the date and time of repair, to be maintained on a daily basis.

g. No later than 90 days from notice that the APCO has determined that specific equipment is available, accurate, reliable and economically feasible to continuously monitor in stack particulates, such equipment will be ordered. The equipment shall be installed within 60 days of receipt and continuously maintained according to manufacturer specifications.

Operating Conditions

14. The following operating conditions will be incorporated into the permit:

a. Start-up shall be defined as the setting in operation of an affected facility by the introduction of fuel flow into the boiler [Reg. I Rule 101].

b. Shut-down shall be defined as the cessation of operation of an affected facility for any purpose by the cessation of fuel flow into the boiler [Reg. I Rule 101].

c. The electrostatic precipitator shall be maintained according to the following parameters: (to be determined by Permittee and manufacturer, and approved by the APCO).

d. All equipment shall at all times be maintained in good working order.

e. The boiler shall be fired only with wood wastes and NGL. Wood wastes are defined to be sawmill or lumber wastes; or vegetation that is not treated with any chemicals. The Permittee is prohibited from burning residential waste, painted wood (including lead-based paint), or chemically treated wood.

f. The steam production from the boiler shall not exceed 105,000 pounds per hour on a monthly average basis.

g. The annual capacity factor for NGL shall not exceed 10% for a calendar year [Appropriate NSPS reference to be provided]. This equates to a limitation of 1.78 million gallons of NGL per calendar year. The annual capacity factor for NGL is determined by dividing the actual heat input to the steam generating unit during the calendar year from the combustion of NGL, by the potential heat input to the steam generating unit if the steam generating unit had been operated for 8,760 hours at the maximum design heat input capacity [Appropriate NSPS reference to be provided].

III. EMISSIONS TESTING

The following tests required by this Stipulation shall be performed by a State-certified source testing firm:

1. Particulate Matter - CARB Method 5 or other EPA approved method. The Permittee shall perform a compliance test for particulate matter from the boiler once per calendar year.

2. Carbon Monoxide and Nitrogen Oxides - CARB Method 100 or other EPA approved method. The Permittee shall perform a compliance test for particulate matter from the boiler once per calendar year.

3. The Permittee shall conduct a Relative Accuracy Test Audit (RATA) once per calendar year, in order to verify the accuracy of the CEMS for Carbon Monoxide and Nitrogen Oxides.

IV. REPORTING

1. Documentation shall be submitted from the equipment manufacturers (if available) of the wood-fired boiler, drier, multiclones, and electrostatic precipitator which certifies 1) the current design and capacity of the devices, and 2) certifies that the designs are adequate to control particulate matter emissions to levels within permitted limits.

2. The Permittee shall submit verifiable documentation satisfying how the facility addresses Reasonably Available Control Technology (RACT) practices.

3. The Permittee shall report all occurrences of excess emissions to the AQMD in accordance with the timing requirements of Regulation 1, Rule 105 (5.0), Equipment Breakdown.

4. Permittee shall forward the following reports on a weekly basis:
   a. The inspection log of basic equipment inspections; and
   b. Record of facility start-up and shutdown that results in excess emissions.

5. Submit a quarterly report that identifies the daily and monthly averages of carbon monoxide, nitrogen oxides, and oxygen emissions. The report shall be due no later than the fifteenth day of the first month in the following quarter.

6. Submit a quarterly report that identifies any deviation from any permit requirements or local, state, or federal regulations, including a summary of those deviations attributable to breakdowns reported in accordance with Rule 105 (5.0). The report shall be due no later than the fifteenth (15th) day of the first month of the following quarter.

7. Submit all source test reports required by this Stipulation within forty-five (45) days of the test date.

8. Submit an annual Monitoring Certification Report that provides certification of the quarterly monitoring reports. The Monitoring Certification Report shall be signed by a responsible company official and contain a statement that the information contained in the report is true, accurate, and complete. The Monitoring Certification Report shall be submitted no later than Jan 31st for the following year.

9. Submit an Annual Compliance Certification Report that certifies the compliance status of the facility. The Compliance Certification Report shall be signed by a responsible company official and contain a statement that the information contained in the report is true, accurate, and complete. The Compliance Certification Report shall be submitted no later than January 31st of the following year.

10. Report to the APCO all calendar year plant operating information including the number of operating days for the boiler, the amount of steam produced and the amount of NGL burned.

V. RECORDKEEPING

1. Maintain data on the operation of the boiler that shall include the temperature, pressure and flow of steam production.

2. Maintain records of opacity 6-minute averages.

3. Maintain records of the hourly, daily and monthly averages for carbon monoxide, nitrogen oxides, and oxygen.

4. Maintain NGL fuel usage information in order to calculate the annual capacity factor [Appropriate NSPS reference to be provided].

5. Maintain records of any startup or shutdown, any periods of malfunction of the air pollution control equipment, and any periods during which the CEMS or COMS are inoperative.

6. Retain records of all required monitoring data and support information including the date, place, time, results of any sampling or analysis, and the operating conditions at the time of sampling for a period of at least five (5) years from the date of the monitoring sample,

measurement, report, or application. Support information includes all calibration and maintenance records and copies of all reports required by this Stipulation.

VIII. FEE PAYMENT

1. Pay all fees required pursuant to AQMD Regulation IV. Pursuant to Regulation IV, Rule 400 (10.0), the Title V permit application submittal shall include a $10,000 advance deposit.

VII. INSPECTION AND ENTRY

1. Upon presentation of credentials and other documents as may be required by law, the Permittee shall allow AQMD, CARB, EPA or an authorized representative to perform the following:

   a. Entry onto premises: upon the Permittee's premises where a regulated facility or emissions-related activity is located or conducted, or where records must be kept under the conditions of this Stipulation, to:

      i. Make available to the APCO or his designees, at reasonable times, copies and immediate original records that must be kept under the conditions of this Stipulation;
      ii. Perform inspections of facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this Stipulation; and
      iii. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the conditions of this Stipulation.

VIII. TRANSFER OF OWNERSHIP

1. In the event of any changes in control or ownership of these facilities, this Stipulation, together with its terms and conditions, shall be binding on all subsequent owners and operators. The Permittee shall notify the succeeding owner and operator of the existence of this permit and its conditions by letter, a copy of which shall be forwarded to the District.

2. The Permittee shall at all times, in the course of this Stipulation, comply with the AQMD Rules and Regulations and Health and Safety Code section 41701, not otherwise the subject of this Petition, while operating the subject equipment.